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UT-0033

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REMARKS

Claims 1-8 are pending in the instant application.

Claims 1-8 have been subjected to a Restriction Requirement as follows:

Group I, claims 1-3, drawn to isolating greater than 95% pure population of neuron restricted precursor cells;

Group II, claims 4-6, drawn to a isolating greater than 95% pure population of mouse glial-restricted precursor cells; and

Group III, claims 7-8, drawn to isolating neuroepithelial cells.

The Examiner suggests that Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1, because under Rule 13.2, they lack the same or corresponding special technical features. Specifically, the Examiner suggests that they require different cell types and possess distinct technical features.

Applicants respectfully traverse this Restriction Requirement.

At the outset, it is respectfully pointed out that the Examiner's suggestion that "the inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack

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the same or corresponding special technical feature" directly contradicts both the International Search Report and the International Preliminary Examination Report issued in the PCT application of which this case is the U.S. National Stage wherein all claims were searched and examined for patentability.

Further, MPEP \$803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of the prior art relating to pending claims 1-8 has already been performed in the corresponding PCT application. Thus, there is clearly no burden placed upon the Examiner by including all claims in this case, since the full claim set was already searched and examined in the PCT application.

Further, the Examiner has provided no evidence in this Restriction Requirements to support the contention that the Groups have acquired separate status in the art.

Accordingly, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, it is respectfully requested that this Restriction Requirement be withdrawn.

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In an earnest effort to be completely responsive, however, Applicants elect Group II, claims 4-6, with traverse.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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Date: January 14, 2005

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